



Larry M. Weil, Planning Director
Steven Zimmer, Senior Planner
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission
June 13, 2011 at 7:00 P.M.
West Fargo City Hall

Members Present: Frank Lenzmeier
Terry Potter
Edward Sheeley
Jason Gustofson
Connie Carlsrud
Jerry Beck
Tom McDougall

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Dustin Scott, Mike Sells, Dan Bueide, Garrett Smith, Christian Kiedrowki, Zerek Kroll, Jim Bullis

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the May 9, 2011 meeting minutes as printed. Commissioner Beck seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A11-14 South Pond at the Preserve 3rd Addition, a replat of Blocks 2 & 3 and 29th Avenue East of South Pond at the Preserve 2nd Addition and plat of part of the SE¼ of Section 20, T139N, R49W, City of West Fargo, North Dakota and Rezoning from A: Agricultural and R-1SM: Mixed One & Two Family Dwellings to R-1A: Single Family Dwellings.

Larry reviewed the following information from the staff report:

The property is located east of the Sheyenne River on the north side of 32nd Avenue East and west of Veteran's Boulevard. The proposed rezoning is consistent with the City's Land Use Plan, which depicts the area as developing as Low Density Residential. The proposed use is consistent with City Plans and Ordinances.

The developer has submitted an application, Area Plan and Preliminary Plat. The Developer proposes replatting and rezoning lots between 4th Street East and Bluestem Drive and between 26th Avenue East and 31st Avenue East to allow for a church facility and single family dwellings. Lot 1 of Block 3 is being platted and zoned as a church and private school facility. The rest of the development will be zoned R-1A for larger single family homes.

The plat shows R-O-W widths for the single family streets as 62' which is adequate; however, the R-O-W for 7th Street East, which extends along both single family and church streets, is shown as 62' but should be increased to 66' to meet City standards for non-residential use. 26th Ave E is a limited access Collector roadway so accesses for the development on Lot 1, Block 3 are intended to be on 7th Street East and Bluestem Drive.

Park dedication is required with the subdivision plat. The Park District is reviewing the proposed land dedication for the subdivision and will be providing recommendations. Approximately one acre in land dedication is shown. Recommendations should be received prior to City Commission approval. For the first two subdivisions, the developer dedicated more land than required so the overage amount would be applied to this subdivision.

Sewer and water services have not been extended to the property yet. A special improvement district will need to be established to provide for the needed services. A drainage plan is also required for the subdivision which will be reviewed and approved by the City Engineer.

Notices were sent out to City departments, utility companies and neighboring property owners. No issues have been identified from the comments received.

Staff recommends approval with the following conditions:

1. An Attorney Title Opinion is received.
2. A certificate is received showing that taxes are current.
3. A drainage and utility plan is received and approved by the City Engineer.
4. Any necessary easements are placed on the Final Plat.
5. A subdivision improvement agreement is received from the developer.
6. A park dedication agreement is received.

Developer Dan Bueide stated that he's available to answer any questions.

There were no comments from the public. The hearing was closed.

Commissioner McDougall asked for clarification regarding the 7th Street right-of-way and if the increase shouldn't be an additional condition.

Commissioner McDougall made a motion for approval based on conditions 1-6 listed in the staff report, as well as an additional condition that 7th Street West right-of-way be increased from 62' to 66'. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A11-15 Conditional Use Permit for Development Signage for the South Pond at the Preserve Area.

Steven reviewed the following information from the staff report:

The Developer proposes to place eight entrance signs to the South Pond at the Preserve development at Veterans Boulevard and 23rd Avenue East, Veterans Boulevard and 26th Avenue East, Veterans Boulevard and 31st Avenue East, and 32nd Avenue and 4th Street East, with one on each side of the intersection. The size of signage is greater than allowed under the regular provisions of the sign regulations; however is allowed as a conditional use.

The applicant has submitted a sign plan and elevation plans for the proposed signs. The size of the proposed structure is about 3.5' x 16' with the signage on the structure being 1.6' x 14', or 22.4 ft². As per city ordinance a CUP is required for any residential development with two signs per entrance if said signs are larger than 16 ft². The proposed 22.4 ft² signage would require a CUP.

With regards to the conditional use criteria pertinent to signage, no exterior lighting is proposed which will cause adverse effects such as glare, traffic safety problems or detrimental economic affect to properties within the district. The sign concept is developed with character and would be viewed as compatible or in harmony with properties in the district.

It is required that the developer submit a maintenance plan for the continued care of the fence and signage. In the past an agreement between the city and developers has included an escrow account funded by the developer with money to pay for the removal of signage if at any time the signs fall into disrepair and developer is no longer maintaining the structure and landscaping. This will be the type of agreement required for these signs.

Notices were sent out to property owners within 350'. We have not received any concerns or objections to the proposed signage.

Staff recommends approval with the following condition:

1. A maintenance plan is established for care and maintenance of the signage and landscaping.

Developer Dan Bueide stated that he's available to answer any questions.

There were no comments from the public. The hearing was closed.

Commissioner Sheeley asked for clarification regarding the escrow account being part of the maintenance plan. Steven stated that is the way it's been handled in the past; however, the developer indicated he may have another option.

Discussion was held regarding the number of signs and locations, as well as if the agreement would address damage due to a wind event.

Mr. Bueide stated that he's spoken with Jim, the City Attorney and other developers. The signs were engineered by a landscape architect to look nice, have minimum maintenance, longevity... Being that the area is too large for a homeowners association, he's proposing adding the signs into the street assessment district to create a sinking fund to handle and sign maintenance issues.

Commissioner McDougall made a motion for approval. Commissioner Beck seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A11-16 Conditional Use Permit for an accessory building at 709 Martin Drive (Lot 4, Block 1 of Selberg's 2nd Subdivision), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located on the north side of Martin Drive, which is located north of township road 32nd Ave NW and west of Cass County Highway #17. The property is zoned R-1E: Rural Estate District, and requires a conditional use permit to construct an accessory building larger than 1000 ft².

The applicant has submitted a site plan and is proposing a 56' x 16' (896 ft²) addition to a detached garage. The wall height would be 14.5' with a 5/12 roof pitch. Current building is 1,120 ft² and was built prior to the city having extraterritorial jurisdiction in this area so was not required to get a building permit. The applicant is proposing to remove a portion (480 ft²) of the original building, which would leave 640 ft² of the original building, and add on the proposed 896 ft² for a total footprint of 1,536 ft².

Accessory structures over 1000 ft² have been conditionally approved in the past for rural subdivisions provided they are in character with the development pattern of the subdivision. The applicant has submitted elevations with his application that do not show the exterior finish, but do note that the siding and shingles will match the existing home. According to the site plan, the proposed accessory building meets setback requirements.

Property owner will be required to have his property surveyed to find elevations to ensure the proposed structure is built above the 100 year flood plain level. This is a requirement of Building Administration prior to issuing a building permit outside of the Sheyenne Diversion.

Notices were sent to property owners within 350' review and no comments have been received.

It is recommended to conditionally approve the application on the basis that the request is consistent with City plans and ordinances and is in character with the development in the area. The condition for approval is that the applicant complies with the City's flood plain standards.

Applicant Mike Sells indicated he's available to answer any questions. Part of the building is too low and is rotting along the bottom. The building will not be used for commercial uses.

There were no comments from the public. The hearing was closed.

Commissioner Sheeley asked how he plans to build up the structure. Mr. Sells indicated he put in a call to the building official and has yet to receive an answer. He's not so sure it can be done.

Discussion was held regarding the flood plain requirements.

Commissioner Gustofson made a motion for approval based on staff recommendations. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A11-17 Rezoning from R-1A: Single Family Dwellings to R-1: One & Two Family Dwelling All of Blocks 1-5 of Maple Ridge at the Preserve First Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located west of the 4th Street East and north of 31st Avenue East. The area was annexed into the City in 2005 and platted and zoned to R-1A: Single Family Dwellings in October of 2010. The Developer submitted an application to rezone the lots intended for single family dwellings from R-1A: Single Family Dwellings to R-1: One and Two Family Dwellings to allow for more design flexibility. The application is consistent with City Plans and Ordinances.

The City's Land Use Plan depicts the proposed rezoning area as Low Density Residential. The proposed rezoning has no affect on the Land Use Plan. The area south of 31st Avenue East is designated for Medium Density Residential and High Density Residential. The proposed rezoning would provide for up to an additional foot of building area on each side yard from a 6-foot requirement under the R-1A District to a 5-foot requirement under the R-1 District. Other yard requirements are the same for both districts.

If the rezoning is approved, the staff would like to see other adjoining properties to the north and east rezoned for consistency. The proposed rezoning should not have any effect on the adjoining properties which are park properties. The City recently approved the subdivision plat for Maple Ridge at the Preserve Second Addition immediately west of the First Addition which consists of larger single family lots. The zoning for Maple Ridge at the Preserve Second Addition, which generally consists of larger single family lots, is R-1A: Single Family Dwellings.

Notices were sent to area property owners and no comments have been received.

It is recommended that the rezoning application be amended to include the adjoining Park and City properties and approved based on it being consistent with the City's Comprehensive Plan and Zoning Ordinance.

Developer Jim Bullis indicated he was available to answer any questions.

There were no comments from the public. The hearing was closed.

Discussion was held regarding the City and Park property. Larry indicated it included a retention area and bike path.

Commissioner McDougall made a motion for approval based on staff recommendations. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

The next item on the agenda was Subdivision Variance and Minor Planned Unit Development (PUD) Modification for Lot 15, Block 1 of Oakwood Bend 1st Addition (102 Beaton Drive West), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

At the April 11, 2011 Planning and Zoning Commission meeting, considerable discussion took place with regards to a portion of the parking lot being placed in the river bank control area, so that the structure could be moved to the south to save mature oak trees. The City has not considered encroachments into the river bank control area unless a geotechnical soils study demonstrates that any primary and accessory structures requiring permits, parking lots, fill and other development activities which may cause increased riverbank destabilization would not affect the riverbank stability. The Planning and Zoning Commission approved the request subject to conditions and indicated support for site plan revisions allowing a portion of the parking lot extending into the river bank control area if a geotechnical study demonstrates that the riverbank stability would not be adversely affected.

The City Commission reviewed the application on April 18, 2011 and approved the request subject to the conditions of approval by the Planning and Zoning Commission. The real estate agent for the applicant came back to the City Commission

on June 6, 2011 requesting review of the site plan showing a driving aisle and parking inside the 100-foot building control line and to review the recommendations from the soils report completed by Northern Technologies. The City Commission approved the changes and forwarded their recommendation to the Planning and Zoning Commission for approval of the subdivision variance to reduce the building control line for the parking lot and Minor PUD Modification to the site and building design.

As per city ordinance, “developments adjacent to the Sheyenne River shall be required to establish a 100’ building control line from the riverbank. The building control line shall be the minimum setback line for any primary and accessory structures requiring permits, parking lots, fill and other development activities which may cause increased riverbank destabilization.”

The city may grant a variance if sufficient evidence is shown to prove the riverbank is stable enough to reduce the setback. The applicant has had a geotechnical evaluation done on the riverbank on this property which in the opinion of the study’s author, Northern Technologies, is stable enough to build a driving isle/parking lot within the riverbank setback, but does not give a recommendation on the exact distance from the riverbank it could be built. This study also concludes that any primary or structures must be built outside the 100’ riverbank setback, as per city ordinance.

It is staff’s opinion that the study sets general guidelines for the development along the Sheyenne, but does not show an exact measurement, which Staff will require the author of the study to submit for approval of any subdivision variance. Staff believes this should be included in the final site plan.

Staff has received 2 site plans showing different locations for the driveway connecting to the access drive off of Beaton Drive. Option B, with the access moved to the north of the lift station is the preferred option. Option A shows the access very close to Beaton Drive which could cause traffic issues for vehicles turning off of Beaton, as well as it would be built over a park owned bike path property.

Staff believes this application for a variance to the 100’ riverbank stabilization setback is acceptable to the city only if the property owner signs a PUD agreement that states the developer and/or land owner are solely responsible for riverbank destabilization (slumping of the riverbank, slumping/moving of pavement, cracking of parking area, etc) due to the development within the 100’ setback.

If the applicant is willing to sign this PUD agreement staff believes the Subdivision Variance should be approved.

Contractor/Realtor Garrett Smith stated that they plan to go with Option B as per staff recommendations.

Chair Lenzmeier asked if the owner is willing to sign the PUD Agreement. Steven indicated that the realtor and contractor are here tonight, not the owner.

Steven referred to the site plan and indicated that staff still needs to know the measurements.

Assistant City Engineer Dustin Scott reviewed the site plan and referred to the Geotechnical Study, which indicated that they should stay away from the riverbank and leave the vegetation.

Discussion was held regarding the site plan. Steven stated that staff needs to see a dimension from the riverbank. Mr. Smith indicated that they should be able to provide that information.

Commissioner McDougall made a motion for approval for the subdivision variance and minor PUD Modification with the following conditions:

1. A final measurement is provided on the site plan showing distance from the structure and parking lot to the riverbank prior to the issuance of a building permit.
2. The applicant signs PUD agreement stating that developer and/or land owner are solely responsible for riverbank destabilization (slumping of the riverbank, slumping/moving of pavement, cracking of parking area, etc) due to the development within the 100’ setback.

Commissioner Potter seconded the motion. No opposition. Motion carried.

Under non-agenda, Commissioner Gustofson asked who was responsible for the Eagle Run Fence. Jim Bullis stated that it's the City.

Chair Lenzmeier asked about trying to streamline the process in terms for Park review. Larry stated that he visited a bit with the Park District. Staff is looking at sending out a letter to developers spelling out the expectations for approval.

Commissioner McDougall made a motion to adjourn. Meeting adjourned.